

REMARKS

Status Of Application

Claims 1-15 are pending in the application; the status of the claims is as follows:

Claims 1, 4, 5, and 13-15 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,833,911 B2 to Lizotte.

Claims 2, 3, and 6-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lizotte.

The indication, in the Office Action, that the Examiner has no objections to the drawings filed on March 1, 2004, is noted with appreciation.

By this response, claims 1, 13, and 15 have been amended to more specifically point out and distinctly claim the invention. Claims 1, 3, 6, 7, 10, 12, 13, and 15 have been amended to change "media" to "medium." This change is only to make the claim language consistent with what is normally considered the proper grammatical use of media and medium. Claims 16 and 17 has been added. These changes do not introduce any new matter.

35 U.S.C. § 102(e) Rejection

The rejection of claims 1, 4, and 5 under 35 U.S.C. § 102(e) as being anticipated by Lizotte, is respectfully traversed based on the following.

The invention of claim 1, as now presented, is directed to a firearm identification kit configured to be distributed to the owner of a firearm that includes a computer readable data storage medium that stores identifying indicia corresponding to a firearm and at least one image of a spent cartridge case fired by the firearm. The firearm identification kit of claim 1 also includes a recess for at least one spent cartridge case that has been fired by the firearm.

This aspect can be seen in Claim 1 which, as now presented, provides:

A firearm identification kit configured to be distributed to the owner of a firearm comprising:
a recess for at least one spent cartridge case that has been fired by the firearm; and
a computer readable data storage medium in which is stored:
identifying indicia corresponding to a firearm; and
at least one image of a spent cartridge case fired by the firearm.

(Emphasis added)

Thus, as shown above, the invention of claim 1 – which, importantly, is distributed to the owner of a firearm – includes a recess for at least one spent cartridge case that has been fired by the firearm, together with a computer readable data storage medium that stores identifying indicia corresponding to a firearm and at least one image of a spent cartridge case fired by the firearm. This is for the purpose of providing an additional potential source of an image of a spent cartridge case fired by the firearm (in addition to the image of the spent cartridge case fired by the firearm on a computer readable data storage medium). This offers an additional benefit to the owner of a lost or stolen firearm because the owner may submit the sample cartridge case for tool marking imaging and storing. A recess for at least one spent cartridge case that has been fired by the firearm becomes particularly helpful to the owner of the lost or stolen firearm in the event that the computer readable data storage medium that is a part of the firearm identification kit becomes unavailable for any reason.

In order to anticipate the invention of claim 1, the reference must disclose every limitation of the claim. It is respectfully submitted that that Lizotte fails to disclose all of the limitations of claim 1.

Specifically, Lizotte discloses a system for marking cartridge cases with indicia (geometric images or alphanumeric codes) as the firearm is fired. Lizotte further discloses illuminating a base of the fired cartridge from a firearm, obtaining an image of the encoded geometric images or alphanumeric codes that form the breech face impressions on a cartridge

or bullet, and software that reads the encoded codes to provide the serial number or tracking number unique to the firearm that fired the bullet. Importantly, the apparatus and method in Lizotte is not a kit that is provided to the owner of a gun. To the contrary, law enforcement officials may use the apparatus and method in Lizotte independent of the firearm owner's knowledge or permission. Also significant is that because the owner of the firearm described in Lizotte does not receive a kit, there is obviously no recess for at least one spent cartridge case that has been fired by the firearm

The present office action states that Lizotte discloses that "maintaining databases of 'ballistic fingerprints' in which images of bullets and cartridges [recovered] from crime scenes are well known." Without agreeing to the foregoing statement in the present office action, it is respectfully submitted that this is a moot point. Lizotte utterly fails to disclose the limitation of distributing a kit to the owner of a firearm.

Moreover, it is important to note that the examiner has already acknowledged that "Lizotte does not specifically disclose maintaining at least one spent cartridge casing as in claim 2." Obviously, Lizotte cannot disclose this limitation because the system of Lizotte does not disclose distributing anything to the owner, much less a kit where there may be a spent cartridge or a recess for storing a spent cartridge.

Because Lizotte does not disclose every limitation of claim 1, the reference cannot anticipate the invention of claim 1.

Claims 4 and 5 depend from claim 1. Thus, Lizotte cannot anticipate claims 4 and 5 for at least the same reasons as claim 1.

Accordingly, it is respectfully requested that the rejection of claims 1, 4, and 5 under 35 U.S.C. § 102(e) as being anticipated by Lizotte, be reconsidered and withdrawn.

The rejection of claims 13 and 14 under 35 U.S.C. § 102(e) as being anticipated by Lizotte, is respectfully traversed based on the following.

The invention of claim 13, as now presented, is directed to a method of identifying a firearm that includes obtaining a computer readable storage medium from the owner of a firearm whereby the computer readable storage medium has at least one image of a first spent cartridge case fired by the firearm and an image of a second spent cartridge case. The images of the first and second shells are compared and there is a determination whether the images of the first and second shells match.

This aspect can be seen in Claim 13 which, as now presented, provides:

A method of identifying a firearm, comprising:
obtaining from the owner of a firearm a computer readable storage medium including at least one image of a first spent cartridge case fired by the firearms;
obtaining an image of a second spent cartridge case;
comparing the images of the first and second shells; and
determining whether the images of the first and second shells match.

(Emphasis added)

Thus, as shown above, the method of claim 13 includes the limitation of obtaining from the owner of a firearm a computer readable storage medium which includes at least one image of a first spent cartridge case fired by the firearm.

In order to anticipate the invention of claim 13, the reference must disclose every limitation of the claim. It is respectfully submitted that that Lizotte fails to disclose all of the limitations of claim 13.

Specifically—and as discussed above in the context of independent claim 1—Lizotte discloses a system for marking cartridge cases with indicia (geometric images or alphanumeric codes) as the firearm is fired. Lizotte further discloses illuminating a base of the fired cartridge from a firearm, obtaining an image of the encoded geometric images or alphanumeric codes that form the breech face impressions on a cartridge or bullet, and software that reads the encoded codes to provide the serial number or tracking number unique

to the firearm that fired the bullet. Importantly, while Lizotte may collect images – Lizotte does not disclose a kit that is provided to the owner of a gun. To the contrary, law enforcement officials may use the apparatus and method in Lizotte independent of the firearm owner's knowledge or permission.

As a basis for rejecting claim 13, the present office action states that Lizotte discloses that "maintaining databases of 'ballistic fingerprints' in which images of bullets and cartridges covered from crime scenes are well known." Without agreeing to the foregoing statement in the present office action, it is respectfully submitted that this is a moot point because Lizotte utterly fails to disclose the limitation of *obtaining from the owner of a firearm a computer readable storage medium* including at least one image of a first spent cartridge case fired by the firearm. Lizotte is merely an apparatus and method for some third party, such as law enforcement officials at a crime scene, to capture encoded images on a cartridge case to allow for a search in a police database for tracking information related to the captured geometric images or alphanumeric codes. Importantly, no computer readable storage medium is obtained from the owner of a firearm in Lizotte. Lizotte utterly fails to disclose this limitation of the invention of claim 13.

Because Lizotte does not disclose every limitation of claim 13, the reference cannot anticipate the invention of claim 13.

Claim 14 depends from claim 13. Thus, Lizotte does not anticipate claim 14 for at least the same reasons as claim 13.

The rejection of claims 15 under 35 U.S.C. § 102(e) as being anticipated by Lizotte, is respectfully traversed based on the following.

The invention of claim 15, as now presented, is directed to a gun kit configured to be distributed to the owner of a gun, which includes a firearm and a digital medium that stores at least one image of a cartridge case fired by the firearm.

This aspect can be seen in Claim 15 which, as now presented, provides:

A gun kit configured to be distributed to the owner of a gun,
comprising:
a firearm; and
a digital medium on which is stored at least one image of a cartridge
case fired by the firearm.

(Emphasis added)

Thus, as shown above, the method of claim 15 includes the limitation of being a gun kit that is configured to be distributed to the owner of a gun.

In order to anticipate the invention of claim 15, the reference must disclose every limitation of the claim. It is respectfully submitted that that Lizotte fails to disclose all of the limitations of claim 15.

Specifically—and as discussed above in the context of independent claims 1 and 13—Lizotte discloses a system for marking cartridge cases with indicia (geometric images or alphanumeric codes) as the firearm is fired. Lizotte further discloses illuminating a base of the fired cartridge from a firearm found at a crime scene, obtaining an image of the encoded geometric images or alphanumeric codes that form the breech face impressions on a cartridge or bullet, and software that reads the encoded codes to provide the serial number or tracking number unique to the firearm that fired the bullet. Importantly, the apparatus and method in Lizotte does not disclose a kit that is provided to the owner of a gun. To the contrary, law enforcement officials, for example, may use the apparatus and method in Lizotte independent of the gun owner's knowledge or permission.

As a basis for rejecting claim 15, the present office action states that Lizotte discloses that "maintaining databases of 'ballistic fingerprints' in which images of bullets and cartridges covered from crime scenes are well known." Without agreeing to the foregoing statement in the present office action, it is respectfully submitted that this is a moot point. Lizotte utterly fails to disclose the limitation of distributing a gun kit to the owner of a gun.

Because Lizotte does not disclose every limitation of claim 15, the reference cannot anticipate the invention of claim 15. Accordingly, it is respectfully requested that the rejection of claim 15 under 35 U.S.C. § 102(5) as being anticipated by Lizotte, be reconsidered and withdrawn.

35 U.S.C. § 103(a) Rejection

The rejection of claims 2, 3, and 6-12 under 35 U.S.C. § 103(a), as being unpatentable over Lizotte, is respectfully traversed based on the following.

As previously noted, the invention of claim 1, as now presented, is directed to a firearm identification kit configured to be distributed to the owner of a firearm that includes a computer readable data storage medium that stores identifying indicia corresponding to a firearm and at least one image of a spent cartridge case fired by the firearm. The firearm identification kit of claim 1 also includes a recess for at least one spent cartridge case that has been fired by the firearm.

This aspect can be seen in claim 1 which, as now presented, provides:

A firearm identification kit configured to be distributed to the owner of a firearm comprising:
 a recess for at least one spent cartridge case that has been fired by the firearm; and
 a computer readable data storage medium in which is stored:
 identifying indicia corresponding to a firearm; and
 at least one image of a spent cartridge case fired by the firearm.

(Emphasis added)

Thus, as shown above, the invention of claim 1 – which is distributed to the owner of a firearm – includes a recess for at least one spent cartridge case that has been fired by the firearm, together with a computer readable data storage medium that stores identifying indicia corresponding to a firearm and at least one image of a spent cartridge case fired by the firearm. This provides an additional potential source of an image of a spent cartridge case fired by the firearm (in addition to the image of the spent cartridge case fired by the firearm

on a computer readable data storage medium). This offers an additional benefit to the owner of a lost or stolen firearm because the owner may submit the sample cartridge case for tool marking imaging and storing. A recess for at least one spent cartridge case that has been fired by the firearm becomes particularly helpful to the owner of a lost or stolen firearm in the event that the computer readable data storage medium storing identifying indicia corresponding to a firearm and at least one image of a spent cartridge case fired by the firearm becomes unavailable for any reason.

In order to render obvious the invention of claim 1, the reference must disclose or suggest every limitation of the claim. It is respectfully submitted that that Lizotte fails to disclose or suggest all of the limitations of claim 1.

As previously noted, Lizotte discloses a system for marking cartridge cases with indicia (geometric images or alphanumeric codes) as the firearm is fired. Lizotte further discloses illuminating a base of the fired cartridge from a firearm, obtaining an image of the encoded geometric images or alphanumeric codes that form the breech face impressions on a cartridge or bullet, and software that reads the encoded codes to provide the serial number or tracking number unique to the firearm that fired the bullet. Importantly, the apparatus and method in Lizotte is not a kit that is provided to the owner of a gun. To the contrary, law enforcement officials may use the apparatus and method in Lizotte independent of the firearm owner's knowledge or permission. Also significant is that because the owner of the firearm described in Lizotte does not receive a kit, there is of course no recess for at least one spent cartridge case that has been fired by the firearm

The present office action states that Lizotte discloses that "maintaining databases of 'ballistic fingerprints' in which images of bullets and cartridges covered from crime scenes are well known." Without agreeing to the foregoing statement in the present office action, it is respectfully submitted that this is a moot point. Lizotte utterly fails to disclose or suggest the limitation of distributing a kit to the owner of a firearm.

Importantly, the examiner has acknowledged that "Lizotte does not specifically disclose maintaining at least one spent cartridge casing as in claim 2." Obviously, Lizotte cannot disclose this limitation because the system of Lizotte does not disclose distributing anything to the owner, much less a kit where there may be a spent cartridge or a recess for storing a spent cartridge.

Because Lizotte does not disclose every limitation of claim 1, the reference, by itself, cannot anticipate or render obvious the invention of claim 1.

As noted below, the office action's argument that maintaining the at least one spent cartridge is well known fails to cure the deficiency in Lizotte and thus the combination of Lizotte with what would have been obvious to one of ordinary skill in the art fails to disclose, suggest or teach the invention of claim 1. Moreover, even if it were known, that would not suggest providing a kit that includes a spent cartridge or a recess for storing one.

The present office action states that "Lizotte does not specifically disclose maintaining at least one spent cartridge casing" but "maintaining the at least one spent cartridge is well known." The office actions also states that it would have been obvious to one of ordinary skill in the art at the time of the invention to maintain the at least one spent cartridge to have physical evidence for comparison. It is respectfully submitted that this is incorrect.

As an initial matter, when "common knowledge" in the art or well known prior art is relied upon by the examiner as the basis for an obviousness rejection, ordinarily there must be some form of evidence in the record to support an assertion of common knowledge. M.P.E.P. § 2144.03(B).

The office action does not produce authority for the statement that it would have been obvious to one of ordinary skill in the art at the time of the invention to maintain the at least one spent cartridge to have physical evidence for comparison. The applicant respectfully requests that the examiner produce authority for this statement.

It is further respectfully submitted that the limitation of claim 1, which requires a recess for at least one spent cartridge case that has been fired by the firearm as a part of a firearm identification kit, was not well-known to a person of ordinary skill in the art at the time of invention. This limitation adds another source of an image of a spent cartridge case to the firearm identification system—in addition to the image of the spent cartridge case fired by the firearm on a computer readable data storage medium—distributed to the owner of the firearm. This belt-and-suspenders approach offers an additional benefit to the owner of a lost or stolen firearm, because the owner may submit the sample cartridge case for tool marking imaging and storing. A recess for at least one spent cartridge case becomes particularly helpful to the owner of the lost or stolen firearm in the event that the computer readable data storage medium is unavailable.

As noted above, in order to render obvious the invention of claim 1, as currently presented, the cited references, singly or in combination, must disclose or suggest every limitation of the claim. In the present case, no reference discloses, suggests or teaches a firearm identification kit configured to be distributed to the owner of a firearm having a recess for at least one spent cartridge case. Accordingly, because the references fail to disclose or suggest these limitations of claim 1, the references are also unable to render obvious the invention of claim 1.

Because the references do not disclose every limitation of claim 1, the reference cannot render obvious the invention of claim 1.

Claims 2, 3, and 6-12 each depend, directly or indirectly, from claim 1. As noted above, Lizotte does not disclose, suggest or teach a firearm identification kit configured to be distributed to the owner of a firearm having a recess for at least one spent cartridge case. Therefore, because claim 1 is nonobvious over Lizotte, claims 2, 3, and 6-12 which depend from claim 1 are also nonobvious for at least the same reasons.

Because Lizotte does not disclose or suggest every limitation of claims 2, 3, and 6-12, which depend from claim 1, the reference, by itself, cannot render obvious this invention.

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Accordingly, it is respectfully requested that the rejection of claims 2, 3, and 6-12 under 35 U.S.C. § 103(a) as being unpatentable over Lizotte, be reconsidered and withdrawn.

CONCLUSION

Wherefore, in view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and an early reconsideration and a Notice of Allowance are earnestly solicited.

This Amendment does not increase the number of independent claims, does not increase the total number of claims, and does not present any multiple dependency claims. Accordingly, no fee based on the number or type of claims is currently due. However, if a fee, other than the issue fee, is due, please charge this fee to Sidley Austin LLP Deposit Account No. 18-1260.

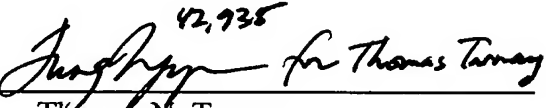
If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed.

Any other fee required for such Petition for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§ 1.16 and 1.17, other than the issue fee,

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and not submitted herewith should be charged to Sidley Austin LLP Deposit Account No. 18-1260. Any refund should be credited to the same account.

Respectfully submitted,

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